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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

555255-012557

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on

July 11, 2008

Signature

Debra Pejeau

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Application Number

10/782,691

Filed

Feb. 19, 2004

First Named Inventor

Hassan, Ahmed E.

Art Unit

2167

Examiner

Lu, Kuen S.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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attorney or agent of record. 47,919

Registration number

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

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Telephone number

7/11/8

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hassan, et al.
Title : SYSTEM AND METHOD FOR SEARCHING A
REMOTE DATABASE
Application No. : 10/782,691
Filed : February 19, 2004
Confirmation No. : 4561
Group Art Unit : 2167
Examiner : Lu, Kuen S.

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Dear Sirs:

The Examiner has issued a Final Rejection of the pending claims. The patent owner hereby requests review of the Final Rejection prior to filing an appeal brief for the reasons set forth below. Any fees due should be charged to Jones Day Deposit Account No. 501432, ref: 555255-012557.

I. Summary of the Claimed Subject Matter

Two independent claims are currently pending, claims 26 and 33. Independent claim 26 recites a memory management method for a mobile device, and independent claim 33 is an apparatus claim that includes similar limitations as claim 26. As claimed, the method and apparatus operate in a system that includes a server that stores copies of data items (*e.g.*, emails) that are transmitted to the mobile device, and the mobile device also has a memory subsystem for storing the data items. That is, data items, such as emails, may be stored both on the mobile device and at the server. In order to create needed memory space on the mobile device, the memory management method, upon determining that additional memory space is needed, communicates with the server to determine if copies of one or more data items are stored on the server. If so, then those one or more data items are deleted from memory in the mobile device to create the additional memory. In this way, additional memory space on the device is freed without deleting the only existing copy of a data item.

II. The rejections of at least independent claims 26 and 33 are clearly in error and must be withdrawn.

Neither of the cited references teach or suggest a memory management system or method for a mobile device that determines if additional memory space is needed on the mobile device, and then, if additional space is needed, communicates with a remote server to ensure that the server has a copy of one or more data items **before** deleting those data items from the mobile device to create additional memory space, as recited in claims 26 and 33. Because the conclusions of the Final Office action with respect to these claim elements are based on clear error, the patent owner respectfully submits that the rejections are improper and must be withdrawn.

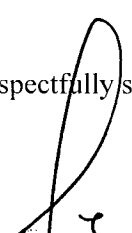
Independent claims 26 and 33 are both rejected under 35 U.S.C. § 103(a) as being unpatentable over Mendez (U.S. 2003/0097358) in view of Achiwa (U.S. 2003/0110190). Specifically, the Final Office action relies on the teachings of the Achiwa reference for the claim limitations relating to determining if a copy of one or more data items are stored on a server, and if so, then deleting the one or

more data items from the mobile device. This conclusion is explained in the Final Office action at page 2, as follows (with emphasis added):

...Examiner respectfully submits that Achiwa copies file to storage server before deleting the copy at the client site (See [0054]) and establishing link of the deleted file to the storage server. ***Considering the deleted file needs to be referenced by the client site via a link pointing to storage server, Achiwa does ensure that a duplicate copy of the file is stored on the server prior to deleting the file from the client.***

The patent owner submits that the Examiner's interpretation of the Achiwa reference, as recited above, is incorrect. The Achiwa reference describes a file transfer method in which files are moved from a storage client site to a storage server site and are then deleted from the storage client site. Achiwa also teaches that after the file has been moved to the server site and deleted from the client site, a "symbolic link" is created at the client site to refer to the file in the server site. (See, Achiwa, paragraphs 0052-0054.) The Final Office action concludes that the creation of this "symbolic link" is equivalent to ensuring that a duplicate copy of the file is stored on the server prior to deleting the file from the client. This conclusion is incorrect. Even assuming *arguendo* that Achiwa's "symbolic link" could be somehow be interpreted as proving a determination that the data item is stored on the server, the Achiwa reference is clear that the "symbolic link" is create only after the file has already been deleted from the client. (See, Achiwa, paragraphs 0052-0054.) Accordingly, the patent owner submits that the rejections of claims 26 and 33 are based clear error and must be withdrawn.

Respectfully submitted,



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